

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	CHAPTER 13
	:	
THELMA JANE HOWE,	:	
	:	
DEBTOR.	:	BANKRUPTCY No. 09-10183 SR
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THELMA JANE HOWE AND	:	
DONALD J. HOWE,	:	
	:	
PLAINTIFFS,	:	
VS.	:	
	:	
CREDITORS INTERCHANGE RECEIVABLE	:	
MANAGEMENT, LLC, AND BANK OF AMERICA, N.A.,	:	
	:	
DEFENDANTS.	:	Adv. No. 09-00010

ORDER

AND NOW, upon consideration of Bank of America, N.A.'s Motion to Dismiss Complaint for Failure to State Claim Upon which Relief can be Granted, or in the Alternative, for Lack of Subject Matter Jurisdiction ("Motion to Dismiss") and Plaintiff's Motion for Permission to Amend Complaint ("Motion for Leave to Amend") and after a hearing with notice, it is hereby **ORDERED** that:

1. The Motion to Dismiss is **DENIED**; and
2. The Motion for Leave to Amend is **GRANTED IN PART and DENIED IN PART**.
3. Plaintiffs are granted leave to amend their complaint to allege that Mr. Howe transferred the \$20,000 which he withdrew from his pension account to entireties property before it

was utilized to make a payment to Creditors Interchange Management, LLC, on Debtor's Bank of America account.

4. Plaintiffs are denied leave to amend their complaint to allege in Count III that Bank of America is vicariously liable for CIRM's alleged misconduct.
5. Plaintiffs shall file their amended complaint, as allowed, on or before Friday, July 10, 2009.
6. Defendants shall file a response to the amended complaint within ten (10) days after service thereof.

By the Court:

A handwritten signature in cursive script, reading "Stephen Raslavich".

Stephen Raslavich
Chief U.S. Bankruptcy Judge

Dated: July 2, 2009

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Courtroom Deputy to Judge Raslavich
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